

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

GRETCHEN S. STUART, M.D., et al.,	)	
	)	
Plaintiffs,	)	Case No. 1:11-cv-00804
	)	
v.	)	
	)	
RALPH LOOMIS, M.D., et al.,	)	
	)	
Defendants.	)	

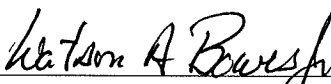
**DECLARATION OF WATSON ALLEN BOWES, JR., M.D.,  
IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

I, Watson Allen Bowes, Jr., M.D., declare as follows:

1. I am an Emeritus Professor of Obstetrics & Gynecology at the University of North Carolina since 1999 and am board certified in Obstetrics & Gynecology and in the subspecialty of Maternal-Fetal Medicine. Prior to my retirement from full-time academic medicine, my special research interests were in high-risk obstetrics and preterm birth. I performed abortions during my formal medical training. After the completion of that training in Obstetrics & Gynecology in 1965, I provided obstetrical care to patients at one time or another in private practice, in the U.S. Army Medical Corps and in my academic appointments at the University of Colorado and at the University of North Carolina. I was a full Professor of Obstetrics and Gynecology at the University of Colorado School of Medicine, and I was a full Professor with a joint appointment in Pediatrics and Obstetrics and Gynecology at the University of North Carolina School of Medicine. I have published 28 book chapters and 147 articles in the field of Obstetrics and Gynecology.

2. A true and correct copy of my expert report and CV are attached hereto as Exhibit 1. The opinions in my expert report are incorporated herein by reference.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on September 14, 2012 in Chapel Hill, North Carolina.

  
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Dr. Watson Allen Bowes, Jr.

EXPERT REPORT OF WATSON ALLEN BOWES, JR., MD

*Stuart v. Huff*, Case No. 1:11-cv-00804 (M.D.N.C)

May 23, 2012

I am an Emeritus Professor of Obstetrics & Gynecology at the University of North Carolina since 1999 and am board certified in Obstetrics & Gynecology and in the sub-specialty of Maternal-Fetal Medicine. Prior to my retirement from full-time academic medicine, my special research interests were in high-risk obstetrics and preterm birth. I performed abortions during my formal medical training. After the completion of that training in Obstetrics & Gynecology in 1965, I provided obstetrical care to patients at one time or another in private practice, in the U.S. Army Medical Corps and in my academic appointments at the University of Colorado and at the University of North Carolina. I was a full Professor of Obstetrics and Gynecology at the University of Colorado School of Medicine, and I was a full Professor with a joint appointment in Pediatrics and Obstetrics and Gynecology at the University of North Carolina School of Medicine. I have published 28 book chapters and 147 articles in the field of Obstetrics and Gynecology. A true and correct copy of my curriculum vitae, which includes a list of my publications, is attached as Exhibit A. I have not testified as an expert at any depositions or trials in the last four years.

I am interested in and have read extensively about the topic of medical ethics. From 1994-1999, I served on the Ethics Committee of the American College of Obstetricians and Gynecologists (ACOG), during two years of which I was Chair of the committee and was editor of the first edition of Ethics in Obstetrics and Gynecology, published by the ACOG. From 2007-2011, I served as the Chair of the UNC Hospitals Ethics Committee. I served on the Committee on Bioethics for the American Academy of Pediatrics from 1996-1999 and served on the UNC School of Medicine Committee on Human Research Ethics (IRB) from 1999-2007. I was a member of the NIH Research Ethics Study Section from 2002-2005 and a member of the Reproductive Genetics Advisory Committee for the Genetic & Public Policy Center in 2003.

I base my opinions in this matter on my education, training, experience and knowledge as a physician in Obstetrics and Gynecology for more than 30 years and the committee service described above. I have also relied upon my knowledge of medical literature and ethics. Although I cannot recall every specific book or article that I have read throughout the years that has informed my views, I have included references to a handful of publications that I can identify herein. I am familiar with the ACOG's Code of Professional Ethics and have reviewed HB 854, the Women's Right to Know Act.

I hold my opinions in this case to a reasonable degree of certainty. My opinions in this case are as follows:

1. HB 854 is consistent with, and not contrary to, medical ethics. HB 854 is supportive of one of the foundation ethical principles in the practice of medicine which is respect for a patient's autonomy.(1,2) In short this is the right of patients to make decisions about their personal health care. Central to this principal is the concept of informed consent. A patient must be given clear-cut, reliable, understandable and truthful information about any medical or surgical treatment they are to undergo. This information must include the risks and benefits of

the treatment and the risks and benefits of alternative treatments or no treatment. This is necessary for a patient to be able to consent to treatment. House Bill 854 ensures that such information is provided to women who are considering an abortion procedure.

(1) The American College of Obstetricians and Gynecologists. Informed consent. *Ethics in Obstetrics and Gynecology 2<sup>nd</sup> Edition*, ACOG, Washington DC, 2004. pp 9-17

(2) Beauchamp TL, Childress JF. *Principles of Biomedical Ethics, 4<sup>th</sup> Edition*. New York, Oxford University Press, 1994 pp 120-188.

2. Informed consent requires a patient have an awareness and understanding of her situation. Informed consent in the abortion context is more complex than consent for most other medical and surgical procedures because a woman considering an abortion procedure is entitled to know not only the risks and benefits of the procedure for herself, but also to understand the nature of the fetus she is carrying. HB 854 ensures that such information will be provided to the woman. Furthermore, the bill ensures that women will have a reasonable time to reflect and consider the information provided to them before they make a final decision about the abortion procedure.

3. HB 854 improves the quality of informed consent for abortion procedures in that it provides guidance for such informed consent.(1) HB 854 provides various written material, visual aids and personal discussion for women considering an abortion procedure. Such measures have been shown to enhance the quality of informed consent for other medical treatments. (2,3)

(1) “The prospects of disclosing information in both obstetrics and gynecology could be usefully strengthened in a number of ways. Physicians should provide written or audiovisual materials to the patient and the patient could also be encouraged to seek out information from reliable, publicly available sources, ...” McCullough & Chervenak, p 146.

McCullough LB, Chervenak FA. *Ethics in Obstetrics and Gynecology*. New York, Oxford University Press, 1994

(2) O'Connor AM, Bennett CL, Stacey D, , et al. Decision aids for people facing health treatment or screening decisions. *Cochrane Database Syst Rev*. 2009 Jul 8;(3):CD001431.

(3) Lurie JD, Spratt KF, Blood EA, et al. Effects of Viewing an Evidence-Based Video Decision Aid on Patients' Treatment Preferences for Spine Surgery. *Spine (Phila Pa 1976)*. 2011 Feb 24. [Epub ahead of print]

4. Women are entitled to the information that is provided in HB 854 and to withhold it from them is overly-paternalistic. Over the last several decades, medicine has moved away from paternalism where the physician decides what the patient needs to patient autonomy where the patient is given all the information that is needed for the patient to make a decision. It would not be proper for physicians to make a value-judgment that the information provided pursuant to

HB 854 is not important for the patient or to decide that such information should be withheld because the physician believes the patient cannot handle such information. The physician has an obligation to provide full information to inform the women's decision.

(1) "The most concrete actualization of the principles of privacy and autonomy lies in the doctrine of informed consent, which has become the central requirement of morally valid medical decision-making. For consent to fulfill the claims of human beings to self-governance, it must be based on sufficient information to make a reasoned choice and must be free of coercion or deception. The procedures surrounding informed consent are designed to facilitate the capacity of rational beings to make judgments of what they consider best, rather than what the physician or any other person might consider best for them." P 129 (Pellegrino & Thomasma, 1993)

Pellegrino ED, Thomasma DC. *The Virtues in Medical Practice*. New York, Oxford University Press, 1993

"But medically and ethically what *should* the patient be told? There can obviously be no rigid prescription, but, just as obviously, the patient should be told enough to permit [him] and [his] physician to reach a consensus. Duplicity, subtle or not, cannot be countenanced. The physician should err on the side of more rather than less information, bearing in mind that patients are rarely the medical dullards that we like to imagine." P 97 (Arras & Rhoden)

Arras J, Rhoden N. *Ethical Issues in Modern Medicine 3<sup>rd</sup> Edition*. Mountain View, CA, Mayfield Publishing Co. 1997.

5. I am not aware of any evidence that patients will be harmed by the provision of information, and there is evidence to the contrary.(1,2) There is no reason that the information required by HB 854 cannot be conveyed in a manner that informs and empowers patients as opposed to judging or shaming them. Furthermore, a physician cannot hold back significant information from a patient simply because it might cause temporary stress or anxiety in some patients. That is frequently the case, such as with a diagnosis of cancer or other disease.

(1) Wiebe ER, Adams LC. Women's experience of viewing the products of conception after an abortion Contraception. 2009 Dec;80(6):575-7. Epub 2009 Aug 22.

(2) Bamigboye AA, Nikodem VC, Santana MA, Hofmeyr GJ. Should women view the ultrasound image before first-trimester termination of pregnancy? S Afr Med J. 2002 Jun;92(6):430-2.

6. HB 854 will not have any untoward effect on the physician-patient relationship. HB 854 does not force physicians to act on the patient against her will, as ultrasounds are already required by law prior to an abortion. My understanding is that the patient has the option to close her eyes or turn her head if she does not wish to see the ultrasound image, and she is not required to listen to and absorb the description unless she chooses to do so. As with other medical procedures, the patient at all times has the option to choose not to proceed.

My standard compensation for expert work would be \$ 500.00 per hour. However, in light of the state budget situation, I have agreed to offer my services to the defendants in this case on a *pro bono* basis.

## CURRICULUM VITAE

*Watson Allen Bowes, Jr.*

**Date of Birth:** March 28, 1934

**Place of Birth:** Denver, Colorado

**Present Position:** Professor Emeritus, Department of Obstetrics and Gynecology  
University of North Carolina School of Medicine

**Present Address:** 211 Huntington Drive  
Chapel Hill, NC 27514

**Citizenship:** United States

**Marital Status:** Married: seven children

**Education:** B.S., Washington and Lee University, 1955  
M.D., University of Colorado School of Medicine, 1959  
Intern, Mary Hitchcock Memorial Hospital, Hanover, NH, 1959-60  
Resident, General Practice, University of Colorado, School of Medicine, 1960-61  
Fellow, Obstetrics and Gynecology, Reproductive, Physiology Laboratory, University  
of Colorado, School of Medicine, 1961-62  
Resident, Obstetrics and Gynecology, University of Colorado School of Medicine,  
1962-65  
Fellow of The Institute of Arts and Humanities, University of North Carolina at  
Chapel Hill, September –December, 2000

**Licensure:** Colorado Board of Medical Examiners, License #13628, 1960  
Board of Medical Examiners of North Carolina, License #25884, 1982

**Academic  
Appointments:** Clinical Instructor, Obstetrics and Gynecology  
University of Colorado School of Medicine, 1965-66  
Assistant Professor, Obstetrics and Gynecology  
University of Colorado School of Medicine, 1966-70  
Major, U.S. Army Medical Corps  
Madigan General Hospital, Tacoma, Washington, 1967-69  
Associate Professor, Obstetrics and Gynecology  
University of Colorado School of Medicine, 1970-76



Professor, Obstetrics and Gynecology  
University of Colorado School of Medicine, 1976-82  
Professor, Obstetrics and Gynecology  
University of North Carolina School of Medicine, 1982-1988  
Professor, Pediatrics (Joint Appointment)  
University of North Carolina School of Medicine, 1985  
Clinical Professor of Obstetrics and Gynecology  
University of North Carolina School of Medicine, 1998-1999  
Professor Emeritus of Obstetrics and Gynecology  
University of North Carolina School of Medicine, 1999-present

***Certified:*** American Board of Obstetrics and Gynecology, 1967  
American Board of Obstetrics and Gynecology,  
Division of Maternal-Fetal Medicine, 1981

***Major Scientific Interest:*** High Risk Obstetrics

***Other Activities and Honors:*** Magna Cum Laude, Washington and Lee University, 1955  
The Algernon Sydney Sullivan Award from Washington and Lee University, 1955  
Phi Beta Kappa  
Alpha Omega Alpha  
Hyman L. Battle Distinguished Excellence in Teaching Award in the Clinical Sciences, 1990  
Silver & Gold Award from the University of Colorado Medical Alumni Association, Board of Directors (highest award bestowed by the Association). April 1990.  
Co-Editor, *Obstetrical and Gynecological Survey*, 1992 to 2006.  
Distinguished Faculty Award presented by the Medical Alumni Association of the University of North Carolina at Chapel Hill, April 1995.  
National Faculty Award for Excellence in Resident Education, Council on Resident Education in Obstetrics and Gynecology, 1999  
Committee on Ethics, American College of Obstetricians & Gynecologists, 1994-1999, Chair of the Committee, 1997-1999.  
Committee on Bioethics, American Academy of Pediatrics 1996-1999  
UNC School of Medicine Committee on Human Research Ethics (IRB) 1999-2007  
NIH Research Ethics Study Section, 2002 – 2005.  
Member, Reproductive Genetics Advisory Committee, Genetics & Public Policy Center, 2003  
Chair, University of North Carolina Hospitals Ethics Committee 2007 - 2011.  
Distinguished Achievement Award, School of Medicine Alumni Association, University of Colorado Denver, May 27, 2010

***Professional Societies:*** American Association of Pro Life Obstetricians and Gynecologists

American College of Obstetricians and Gynecologists  
American Gynecological and Obstetrical Society  
Robert A. Ross Obstetrical and Gynecological Society  
Society of Maternal-Fetal Medicine, Emeritus Status (March 24, 2009)  
North Carolina Medical Society  
Durham-Orange County Medical Society  
Christian Medical and Dental Association

***Publications:***

Peer reviewed articles - **bold numbers**

1. Bowes WA Jr. The Knight of Norwich (Sir Thomas Browne). *Rocky Mountain Med J* 57:57-64, 1960.
2. Bruns PD, Bowes WA Jr., Drose VE, Battaglia FC. Effect of respiratory acidosis on the rabbit fetus in utero. *Am J Obstet Gynecol* 87:1074-80, 1963.
3. Bowes WA Jr., Drose VE, Bruns PD. Amniocentesis and intrauterine fetal transfusion in erythroblastosis. *Am J Obstet Gynecol* 93(6):822-41, 1965.
4. Brazie JV, Ibbott FA, Bowes WA Jr. Identification of the pigment in amniotic fluid of erythroblastosis as bilirubin. *J Pediatr* 69(3):354-8, 1966.
5. Battaglia FC, Meschia G, Makowski EL, Bowes WA Jr. The effect of maternal oxygen inhalation upon fetal oxygenation. *J Clin Invest* 47(3):548-55, 1968.
6. Bowes WA Jr., Droegemueller W. Intrauterine transfusion of twins. *Calif Med* 108(5):380-2, 1968.
7. Brazie JV, Bowes WA Jr., Ibbott FA. An improved rapid procedure for the determination of amniotic fluid bilirubin and its use in the prediction of the course of Rh sensitized pregnancies. *Am J Obstet Gynecol* 104(1):80-6, 1969.
8. Battaglia FC, Bowes WA Jr., McGaughey HR, Makowski EL, Meschia G. The effect of fetal exchange transfusions with adult blood upon fetal oxygenation. *Pediatr Res* 3(1):60-5, 1969.
9. Bowes WA Jr., Gibson JL, Leibovitz A, Palin WJ. Rubella antibody screening in a prenatal clinic using the indirect fluorescent method. *Obstet Gynecol* 35(1):7-11, 1970.
10. Bowes WA Jr. The effects of obstetrical medication on fetus and infant. *Monogr Soc Res Child Dev* 35(4):3-23, 1970.
11. Sabol ED, Gibson JL, Bowes WA Jr. Vasopressin injection in cervical conization: a double-blind study. *Obstet Gynecol* 37(4):596-601, 1971.

12. Haverkamp A, Bowes WA Jr. Uterine perforation: a complication of continuous fetal monitoring. *Am J Obstet Gynecol* 110(5):667-9, 1971.
13. Bowes WA Jr. Fetal growth retardation. *Calif Med* 116(4):54, 1972.
14. Bowes WA Jr. Intrauterine transfusion: indication and results. *Clin Obstet Gynecol* 14(2):561-71, 1971.
15. Robinson A, Bowes WA Jr., Droegemueller W, et al. Intrauterine diagnosis: potential complications. *Am J Obstet Gynecol* 116(7):937-41, 1973.
16. Barton MD, Bowes WA Jr. Successful pregnancy in a patient with severe superior vena cava syndrome. *Chest* 65(2):230-2, 1974.
17. Jeffrey RL, Bowes WA Jr., Delaney JJ. Role of bed rest in twin gestation. *Obstet Gynecol* 43(6):822-6, 1974.
18. Kohler PF, Dubois RS, Merrill DA, Bowes WA Jr. Prevention of chronic neonatal hepatitis B virus infection with antibody to the hepatitis B surface antigen. *N Engl J Med* 291:1378-80, 1975.
19. Jones MD Jr., Burd LI, Bowes WA Jr., Battaglia FC, Lubchenco LO. Failure of association of premature rupture of membranes with respiratory-distress syndrome. *N Engl J Med* 292:1253-7, 1975.
20. Kahn R, Duncan B, Bowes WA Jr. Spontaneous opening of congenital imperforate hymen. *J Pediatr* 87(5):768-70, 1975.
21. Bowes WA Jr. Detection and treatment of tuberculosis. *Contemp Ob/Gyn* 6:43-48, 1975.
22. Kowalski K, Bowes WA Jr. Parent's response to a stillborn baby. *Contemp Ob/Gyn* 8:53-57, 1976.
23. Carson BS, Losey RW, Bowes WA Jr., Simmons MA. Combined obstetric and pediatric approach to prevent meconium aspiration syndrome. *Am J Obstet Gynecol* 126(6):712-5, 1976.
24. Kowalski K, Gottschalk J, Greer B, Bowes WA Jr. Team nursing coverage of prenatal-intrapartum patients at a university hospital: an innovation in obstetric nursing. *Obstet Gynecol* 50(1):116-9, 1977.
25. Bowes WA Jr. Results of the intensive perinatal management of very-low-birth-weight infants (501-1500 gm). Presented at and published in: *Pre-Term Labour*, Proceedings of the Fifth Study Group of the Royal College of Obstetricians and Gynaecologists. Anderson A, Beard R, Brundenell JM, Dunn PM (eds). London, England, 1977. pp. 331-55.
26. Carson BS, Simmons MA, Bowes WA Jr. Meconium aspiration syndrome following cesarean section. *Am Obstet Gynecol* 130(5):596-7, 1978.

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28. Bowes WA Jr., Taylor ES, O'Brien M, Bowes C. Breech delivery: evaluation of the method of delivery on perinatal results and maternal morbidity. *Am J Obstet Gynecol* 135(7):965-70, 1979.
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36. Bowes WA Jr. Medical technology and medical costs [letter]. *N Engl J Med* 302(23):1315, 1980.
37. Clewell WH, Dunne MG, Johnson ML, Bowes WA Jr. Fetal transfusion with real-time ultrasound guidance. *Obstet Gynecol* 57(4):516-20, 1981.
38. Bowes WA Jr., Selgestad B. Fetal versus maternal rights: medical and legal perspectives. *Obstet Gynecol* 58(2):209-14, 1981.
39. Harvey K, Bowes WA Jr. Maternal-fetal transport: reflections on experience at University of Colorado Medical Center. *Perinatology-Neonatology* Nov-Dec:53-60, 1981.
40. Bowes WA Jr. A review of perinatal mortality in Colorado, 1971 to 1978, and its relationship to the regionalization of perinatal services. *Am J Obstet Gynecol* 141(8):1045-50, 1981.
41. Clewell WH, Johnson ML, Meier PR, et al. Placement of ventriculo-amniotic shunt for hydrocephalus in a fetus [letter]. *N Engl J Med* 305(16):955, 1981.
42. Bowes WA Jr. Steps to prevent meconium aspiration syndrome. *Contemporary Ob/Gyn* 19:135-9, 1982.

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51. Seeds JW, Cefalo RC, Herbert WNP, Bowes WA Jr. Hydramnios and maternal renal failure: relief with fetal therapy. *Obstet Gynecol* 64(Suppl):26S-29S, 1984.
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53. Seeds JW, Herbert WNP, Bowes WA Jr., Cefalo RC. Recurrent idiopathic fetal hydrops: results of prenatal therapy. *Obstet Gynecol* 64(3 Suppl):30S-33S, 1984.
54. Cefalo RC, Bowes WA Jr., Creasy RK, Grannum PA. Forum: Managing the problem pregnancy. *Female Patient* 9:126-42, 1984.
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56. Egley CC, Gutliph J, Bowes WA Jr. Severe hypoglycemia associated with HELLP syndrome. *Am J Obstet Gynecol* 152(5):576-7, 1985.
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58. Wiggins JW Jr., Bowes WA Jr., Clewell W, et al. Echocardiographic diagnosis and intravenous digoxin management of fetal tachyarrhythmias and congestive heart failure. *Am J Dis Child* 140(3):202-4, 1986.
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60. Seeds JW, Bowes WA Jr. Ultrasound-guided fetal intravascular transfusion in severe rhesus immunization. *Am J Obstet Gynecol* 154(5):1105-7, 1986.
61. Seeds JW, Bowes WA Jr. Results of treatment of severe fetal hydrothorax with bilateral pleuroamniotic catheters. *Obstet Gynecol* 68(4):577-80, 1986.
62. Bowes WA Jr. Intrapartum fetal surveillance and fetal scalp blood sampling [letter]. *Am J Obstet Gynecol* 155(2):452, 1986.
63. Ambrose A, Cefalo RC, Bowes WA Jr. The effects of fetal exchange transfusion with a red blood cell substitute. *Am J Obstet Gynecol* 154(3):667-74, 1986.
64. Katz VL, Bowes WA Jr. Transient diabetes insipidus and preeclampsia. *South Med J* 80(4):524-5, 1987.
65. Katz VL, Blanchard G, Dingman C, Bowes WA Jr., Cefalo RC. Atenolol and short umbilical cords. *Am J Obstet Gynecol* 156(5):1271-2, 1987.
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78. Thorp JM Jr., Bowes WA Jr. Episiotomy: can its routine use be defended? *Am J Obstet Gynecol* 160(5 Pt 1):1027-30, 1989.
79. Seeds JW, Chescheir NC, Bowes WA Jr., Owl-Smith FA. Fetal death as a complication of intrauterine intravascular transfusion. *Obstet Gynecol* 74(3 Pt 2):461-3, 1989.
80. Thorp JM Jr., Jordan S, Watson WJ, Bowes WA Jr. Survey of maternal transports to the North Carolina Memorial Hospital. *NCMJ* 50(8):423-5, 1989.
81. Krege J, Katz VL, Bowes WA Jr. Transient diabetes insipidus of pregnancy. *Obstet Gynecol Surv* 44(11):789-95, 1989.
82. Thorp JM Jr., Bowes WA Jr. Prenatal diagnosis for couples who would not consider abortion (letter; comment). *Obstet Gynecol* 74(5):828-9, 1989.
83. Thorp JM Jr., Katz VL, Fowler LJ, Kurtzman JT, Bowes WA Jr. Fetal death from chlamydial infection across intact amniotic membranes. *Am J Obstet Gynecol* 161(5):1245-6, 1989.
84. Bowes WA Jr., Katta LR, Droegemueller W, Bright TG. Triphasic Randomized Clinical Trial: comparison of effects'on carbohydrate metabolism. *Am J Obstet Gynecol* 161(5):1402-7, 1989.
85. Droegemueller W, Katta LR, Bright TG, Bowes WA Jr. Triphasic Randomized Clinical Trial: comparative frequency of intermenstrual bleeding. *Am J Obstet Gynecol* 161(5):1407-11, 1989.
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